

Message Text

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ORIGIN SS-30

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FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO IMMEDIATE

INFO AMEMBASSY PANAMA

C O N F I D E N T I A L STATE 203432

EXDIS

E.O. 11652: GDS

TAGS: PFOR, CI

SUBJECT: ATTACHMENT OF CUBAN SHIP "IMIAS"

FOR AMBASSADOR DAVIS

1. AS YOU ARE AWARE, CHILEAN SUGAR COMPANIES (ONE PRIVATE, ONE GOVERNMENT-OWNED) HAVE ATTACHED CUBAN SHIP "IMIAS" IN CANAL ZONE. VESSEL IS PRESENTLY AT ANCHOR IN GATUN LAKE PENDING DISPOSITION OF CASE OR POSTING OF BOND. CUBAN GOVERNMENT HAS STRONGLY PROTESTED ATTACHMENT AS EVIDENCE OF CONNIVANCE BETWEEN USG AND CHILEAN JUNTA AND HAS ALSO ASKED FOR RELEASE OF SHIP ON GROUNDS OF SOVEREIGN IMMUNITY. DEPARTMENT WILL HOLD USUAL HEARING PURSUANT THIS REQUEST OCTOBER 18. RESULT UNDER RESTRICTIVE THEORY OF SOVEREIGN IMMUNITY FOLLOWED BY USG IS LIKELY TO BE REFUSAL MAKE SUGGESTION SUCH IMMUNITY TO CANAL ZONE COURT. CASE WOULD THEN PROCEED TO TRIAL.

2. EVEN IF CHILEAN COMPANIES OBTAIN JUDGMENT FOR AMOUNTS SOUGHT, THEY WILL NOT BE ABLE TO EXECUTE AGAINST THE CUBAN SHIP; RESTRICTIVE THEORY PERMITS ATTACHMENT FOR PURPOSES
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OF OBTAINING JURISDICTION BUT US PRACTICE DOES NOT REPEAT
NOT ALLOW EXECUTION AGAINST PROPERTY OF A FOREIGN STATE.

3. WE RAISED THIS MATTER WITH ENRIQUE BERNSTEIN OCT 12,

POINTING OUT THAT CHILEAN PURSUIT OF CASE SEEMS FRUITLESS
SINCE RECOVERY OF ANY DAMAGES CANNOT BE EXPECTED. WE
NOTED CONSIDERABLE INTERNATIONAL FUROR AROUSED BY CASE TO
NO APPARENT PURPOSE AND SUGGESTED THAT PERHAPS COMPANIES
AND GOC MIGHT WISH SAVE THEMSELVES AND US TROUBLE AND
EXPENSE BY DROPPING IT. BERNSTEIN PROFESSED AGREE THAT
WOULD BE DESIRABLE AND INDICATED INTENTION SO RECOMMEND
TO MINISTER HUERTA ON RETURN TRIP TO SANTIAGO TONIGHT. HE
SAID HE COULD LET YOU KNOW MINISTER'S DECISION IN DAY OR
TWO.

4. FYI - SWISS AMBASSADOR IN HAVANA WAS CALLED IN BY
FIDEL CASTRO THIS MORNING. CASTRO APPEARED EXTREMELY AGI-
TATED, REFUSED TO ACCEPT EXPLANATIONS OF LEGAL PROCEDURES
INVOLVED, AND MENTIONED HIJACKING AGREEMENT IN CONTEXT
OF POSSIBLE RETALIATION. END FYI

5. PLEASE FOLLOW UP WITH BERNSTEIN ASAP. KISSINGER

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<< END OF DOCUMENT >>

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